

REMARKS

I. Status of the Claims

Claims 287-320 were pending and examined in the January 6, 2011 Office Action. With this Reply, claims 287, 289, 290, 291, 294, 297-299, 303, 305, 307-309, 312, and 314-320 are amended and claims 300 and 313 are newly canceled. The amendments are made without prejudice or disclaimer and provide no new matter. Claims 287-299, 301-312 and 314-320 are presented for reconsideration.

II. Double Patenting Rejections

(a) Claims 287, 288, 291-294, 297, 298, 303-308, 310-312, 315 and 316 are rejected on the ground of nonstatutory obviousness-type double patenting (ODP) as being unpatentable over claims 1, 4-11 and 17 of copending U.S. Patent No. 7,256,291. Applicants respectfully request reconsideration and withdrawal of this rejection for the following reasons.

Claim 287 (to which claims 288, 291-294, 297 and 298 are dependent) has been amended to incorporate the elements of claim 300. Since claim 300 was not subjected to the instant rejection and is thus not considered by the USPTO to be to be unpatentable over U.S. Patent No. 7,256,291, claim 287 as amended, and claims dependent thereon, should also not be considered to be unpatentable over 7,256,291.

Similarly, claim 303 (to which claims 304-308, 310-312, 315 and 316 are dependent) has been amended to incorporate the elements of claim 313. Since claim 313 was not subjected to the instant rejection and is thus not considered by the USPTO to be to be unpatentable over U.S. Patent No. 7,256,291, claim 303 as amended, and claims dependent thereon, should also not be considered to be unpatentable over 7,256,291.

In light of the claim amendments and the above discussion, withdrawal of this rejection is respectfully requested.

(b) Claims 287-294, 297, 298, 303, 305-308, 310-312, 315 and 316 are rejected on the ground of nonstatutory obviousness-type double patenting (ODP) as being unpatentable over claims 1-13 of copending U.S. Patent No. 7,166,478. Applicants respectfully request reconsideration and withdrawal of this rejection for the following reasons.

Claim 287 (to which claims 288-294, 297 and 298 are dependent) has been amended to incorporate the elements of claim 300. Since claim 300 was not subjected to the instant rejection and is thus not considered by the USPTO to be to be unpatentable over U.S. Patent No. 7,166,478, claim 287 as amended, and claims dependent thereon, should also not be considered to be unpatentable over 7,166,478.

Similarly, claim 303 (to which claims 304-308, 310-312, 315 and 316 are dependent) has been amended to incorporate the elements of claim 313. Since claim 313 was not subjected to the instant rejection and is thus not considered by the USPTO to be to be unpatentable over U.S. Patent No. 7,256,291, claim 303 as amended, and claims dependent thereon, should also not be considered to be unpatentable over 7,256,291.

In light of the claim amendments and the above discussion, withdrawal of this rejection is respectfully requested.

III. Rejections under 35 U.S.C. § 102

Claims 287-291, 297-299, 303, 305-308 and 315-317 are rejected under 35 U.S.C. 102(b) as being anticipated by Thiele et al. (1994, Analytical Biochemistry 218:330-337). Applicants request reconsideration and withdrawal of this rejection in light of the claim amendments and the following discussion.

Claim 287 (to which claims 288-291 and 297-299 are dependent) has been amended to incorporate the elements of claim 300. Since claim 300 was not subjected to the instant rejection and is thus not considered by the USPTO to be anticipated by Thiele et al., amended claim 287, which incorporates the elements of claim 300, is also not anticipated by Thiele et al.

Similarly, claim 303 (to which claims 305-308 and 315-317 are dependent) has been amended to incorporate the elements of claim 313. Since claim 313 was not subjected to the instant rejection and is thus not considered by the USPTO to be anticipated by Thiele et al., amended claim 303, which incorporates the elements of claim 313, is also not anticipated by Thiele et al.

In light of the claim amendments and the above discussion, withdrawal of the rejection under 35 U.S.C. 102(b) is respectfully requested.

IV. Rejections under 35 U.S.C. § 103

Claims 287-299, 303, 305-312 and 315-317 are rejected under 32 U.S.C. 103(a) as being unpatentable over Thiele et al. (discussed under III. above) in view of Rothschild et al. (U.S. 6,589,736). Applicants request reconsideration and withdrawal of this rejection in light of the claim amendments and the following discussion.

Claim 287 (to which claims 288-299 are dependent) has been amended to incorporate the elements of claim 300. Since claim 300 was not subjected to the instant rejection and is thus not considered by the USPTO to be obvious in light of Thiele et al. and Rothschild et al., amended claim 287, which incorporates the elements of claim 300, is also not obvious in light of Thiele et al. and Rothschild et al.

Similarly, claim 303 (to which claims 305-312 and 315-317 are dependent) has been amended to incorporate the elements of claim 313. Since claim 313 was not subjected to the instant rejection and is thus not considered by the USPTO to be obvious in light of Thiele et al. and Rothschild et al., amended claim 303, which incorporates the elements of claim 313, is also not obvious in light of Thiele et al. and Rothschild et al.

In light of the claim amendments and the above discussion, withdrawal of the rejection under 35 U.S.C. 103(a) is respectfully requested.

V. Conclusion

Applicants note with appreciation the determination that claims 300-302, 313, 314 and 318-320 are allowable if rewritten in independent form. As discussed above, Applicants have amended claim 287 to include the limitations of claim 300, and have also amended claim 303 to include all of the limitations of claim 313. As further detailed above, the amendments should result in allowance, which is respectfully requested.

Applicants authorize the United States Patent and Trademark Office to charge all fees required to maintain pendency of this application, including the extension of time fees, to Deposit Account No. 05-1135.

If a telephone conversation would further the prosecution of the present application, Applicants' undersigned attorney requests that he be contacted at the number provided below.

Respectfully submitted,

/Elie Gendloff/
Elie Gendloff, Reg. #44704
Attorney for Applicants

ENZO BIOCHEM, INC.
527 Madison Avenue, 9th Floor
New York, New York 10022-4304
Telephone: (212) 583-0100
Facsimile: (212) 583-0150